

REMARKS

In response to the above Office Action, the specification has been amended to delete reference to claim 1. It has also been amended on page 3 to change "chamfers" to "inclined faces" and on page 4 to change 'chamfered" to "inclined." Support for this can be found in Figures 6 and 7 and the discussion of the figures on pages 12 and 13 of the specification. The German word "abschrägung" in the priority document was incorrectly translated as "chamfers," whereas "inclined faces" is the correct translation. Thus it is not believed the amendment introduces any new matter into the specification. The same amendment has been made in claims 2 and 3.

In addition, claims 1-19 have been amended to delete reference numerals, to avoid indefinite preferable clauses, to avoid improper multiple dependency and to place the claims in more traditional U.S. format. New claims 20-26 cover the subject matter deleted from the claims from which they depend.

This application is the national stage of an international application. Thus it is believed that method claims 16-19 and 25 and 26 dependent from the apparatus claims can be included in the case under the provisions of Rule 1.475(b)(2). Consideration of all of claims 1-26 is therefore requested.

In the Office Action the Examiner rejected claims 1-5 under 35 U.S.C. § 102(b) for being anticipated by U.S. Patent No. 6,464,177 to Heim. Claim 8 was rejected under 35 U.S.C. § 103(a) for being obvious over Heim in view of U.S. Patent No. 6,955,326 to O'Brien et al., hereafter O'Brien.

Heim discloses in column 3, lines 19 to 48 a switching device which lifts a tip 13 of a switch tongue 12 comprising two rollers 7a and 7b having their axes parallel to the rail 11. Roller 7a is supported by eccentric axle 15 (see Figs. 3a to c) within a fixing

frame 8 (base body), with the eccentric axle serving to adjust the height of roller 7a individually with respect to roller 7a in its previous state (Fig. 2) and with respect to roller 7b. Fixing frame 8 is linearly displaceable and adjustable in the direction of tongue heel 14 (see Fig. 2) so as to bring heel 14 to rest almost on the front roller 7a. As can be seen from Figs. 2 and 5, frame 8 is divided into an upper and a lower part.

First of all and in contrast to claim 1, Heim does not disclose any "covering". In particular, Heim does not disclose in Fig. 1 any element that "at least partially covers a passage between ... two adjacent rollers" as set forth in claim 1. While the Examiner maintains that such a covering exists between rollers 7a, 7b in Fig. 1 of Heim, none can be seen. It would be appreciated if he would point out where such covering exists in this figure.

Moreover, Heim does not disclose the claimed top and bottom sections of the base body. While in Heim rollers 7a, 7b may be height-adjustable by means of an eccentric axle 15, this does not correspond to the claimed displacement of the top section of the base body (or frame) on the bottom section to adjust the height of the rollers.

Furthermore, the direction of displacement of the frame 8 in Heim is not "at an angle" with respect to the plane of displacement of the switch tongue (tongue blade) as also set forth in claim 1. Heim describes in column 4, lines 6-20 the height adjustment of rollers 7a and 7b relative to each other and in column 3, lines 19-29 the linear horizontal displacement of frame 8 on slide chain plate 9. However, there is no adjustment or change of height between such parts during such displacement. See also column 3, lines 33-38 of Heim. Thus the "displacement" between such parts of

and lower parts is disclosed. The eccentric axle 15 of Heim may be rotatable by means of an Allen key, but there is no threaded rod.

Accordingly, it is not seen how claim 1 or claims 2-5 dependent therefrom can be considered to be anticipated by Heim. As set forth in M.P.E.P § 2131, each and every element of a claim must be found in a single prior art reference for it to anticipate a claim, and Heim fails to show each of the above-described features of the claims. Withdrawal of Heim as a ground of rejection of these claims under § 102(b) is therefore requested.

Regarding claim 8, this claim is dependent from claim 1, so it is submitted it is patentable over the cited combination of references because O'Brien does not disclose what is missing in Heim. Withdrawal of the rejection of claim 8 under § 103(a) is, therefore, also requested.

It is believed claims 1-26 are in condition for allowance and such action is therefore requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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